

Appl. No. 10/766,846
Amdt. Dated April 12, 2005
Reply to Office Action of February 23, 2005

REMARKS/ARGUMENTS

Claim Amendments

Claims 5 and 8 are amended. Claims 1 and 2 are cancelled. Claims 6-7 and 9 remain as previously presented. Claims 5-9 are now pending.

Claim 5 is amended to make it independent, but its scope has not changed. Claim 8 is amended to make it independent and to state that the interior of the plenum or manifold is distinct from the permeate collection zone. The Applicants submit that no new matter is added by these amendments.

Claim Rejections – 35 USC 102

Claim 5 was rejected as being anticipated by Tober '281. The Office Action states that a "permeate pan defining a plenum or chamber is defined by elements 44, 47, and 43". However, elements 44, 47 and 43 of Tober define a collecting chamber for permeate which the Office Action has equated with the permeate collection zone of part (d) of claim 5. The wherein clause of claim 5 further describes walls enclosing a plenum adjacent to the permeate collection zone. Elements 44, 47 and 43 do not provide both a permeate collection zone and a plenum adjacent to the permeate collection zone. Accordingly, the Applicants submit that claim 5 is not anticipated by Tober.

The Office Action also rejects claim 5 as being anticipated by Pye '379. The Office Action does not cite any feature of Pye that provides a plenum adjacent to a permeate collection zone. Accordingly, the Office Action does not provide a prima facie case that claim 5 is anticipated by Pye.

Claim Rejections – 35 USC 103

Claims 6-9 were rejected as being obvious over Tober '281 as applied to claim 5, in view of Caracciolo '553. For the reasons above, the Applicants submit that Tober does not provide the elements of claim 5. Accordingly, the Office Action does not provide a prima facie case of obviousness of claims 6 and 7 which depend on claim 5. Caracciolo

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also does not disclose an air tube passing through the potting material with a second end in communication with a plenum adjacent a permeate collection zone. Further, neither reference suggests any reason to add the perforated tubes 44 of Caracciolo to the module of Figure 2 of Tober, there being no teaching as to why the specific module of Figure 2 of Tober needs such a tube or how such a modified module could be built.

Regarding claims 8 and 9, neither Tober, Caracciolo nor any combination of them, describe an air tube having a second end in communication with a plenum or manifold that is distinct from a permeate collection chamber.

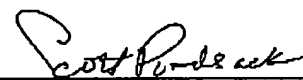
Finality of Office Action

The Office Action cited three new references. The Office Action further stated that Applicants amendment necessitated the new grounds of rejection. The amendment at issue (filed January 18, 2005) consisted of canceling two claims and deleting the words "or an end cap" from a recitation of "a permeate pan or an end cap". The cancellation of claims does not necessitate new grounds of rejection. Similarly, the amendment to claim 2 either had no effect on the scope of the claim or narrowed the claim within its previous scope. Such an amendment does not necessitate a new ground of rejection pursuant to 706.07(a). Accordingly, the Applicants request that the finality of the Office Action be withdrawn unless the current claims are allowed.

For the reasons above, the Applicants submit that the claims are allowable.

Respectfully submitted,

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